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# IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

## Additional information submitted by States parties to the Covenant following the consideration of their reports by the Committee on Economic, Social and Cultural Rights

Addendum

FRANCE */

[17 April 1989]

*/ At the 12th and 13th meetings of its third session, held on 14 February 1989 (E/C.12/1989/SR.12 and 13), the Committee considered the initial report of France concerning rights covered in articles 10 to 12 of the Covenant (E/1986/3/Add.10).

By a note dated 17 April 1989, the French Government submitted additional information which relates to the consideration of its report by the Committee and is reproduced in the present document.

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## A. General comments

### 1. Opportunities and problems involved in building the social welfare Europe of the Twelve: looking ahead to 1992

1. As is known, France has solemnly affirmed that it attaches high priority to the development of a "European social welfare area" and it intends to continue pursuing that objective. During the second half of 1989, France will assume the presidency of the Council of the European Communities and will thus be in a particularly favourable position to ensure that the social dimension of Europe is fully taken into account. At present, moreover, the French Government is developing the proposals it will make on this topic in co-operation with Spain, which currently holds the presidency of the European Communities.

2. In addition to Governmental activities, work being done in this field through the courts is also very important, although less immediately visible. The Court of Justice of the European Community, for example, is making a major contribution to the harmonization of social legislation and may, through its decisions, succeed in doing what Government policies have not yet been able to achieve in the social welfare field.

### 2. French food aid to the Third World

3. French food aid takes various forms and is provided through various channels. In 1987, it totalled 181 million francs and the figure is expected to increase in 1988. In accordance with its commitments under the London Food Aid Convention, France supplies third world countries with an annual minimum of 200,000 tons of grain. It also contributes dairy produce and grain to development projects organized by the World Food Programme (WFP). Thus, in 1987, WFP received the equivalent of 17.5 million francs in produce of those categories. The supplies are financed by the Ministry of Agriculture, while the Ministry of Co-operation bears the transport costs and the Ministry of Foreign Affairs contributes to the WFP budget.

4. Lastly, France participates on the basis of the budget distribution schedule to the financing of the European Economic Community's food aid programme, again pursuant to the London Food Aid Convention. Among its most important contributions to that programme in 1987 were 1.2 million tons of grain; 130,000 tons of powdered milk; and 30,000 tons of butter oil.

5. In devoting 0.51 per cent of its GDP to development aid in 1987, France is well ahead of a number of leading European countries. In 1989, it has been decided to allocate 0.54 per cent of its GDP to official development assistance (ODA), the total to be divided between bilateral assistance (22.5 billion francs) and multilateral assistance (9.3 billion francs).

6. Bilateral assistance this year has been characterized by an increase in donations and by the partial cancellation of the debt of developing countries. The 1988 amended Finance Act allocates 1.3 billion francs to cancel part of the debt of the poorest countries. This measure implements the proposal made by the President of the Republic at the Toronto Summit in June 1988 to cancel a third of debts currently due for settlement and allow the remaining two thirds to be repaid over 14 years. Future efforts will

focus on the renewal and reconstruction of African educational systems, with priority being given to teacher training and the adaptation of co-operation activities to the situation in the field. The target will be specific, environmentally integrated projects whose main components will be rural development, health and resource stability. France is and will also continue to be active in combating scourges such as malaria, AIDS and locusts.

## B. Article 10: Family, maternal and child welfare

### 1. Family benefits and problems connected with differences in income levels between metropolitan France and Overseas Departments and Territories

7. A distinction must be drawn between the Overseas Departments (DOM) and the Overseas Territories (TOM).

(a) Overseas Departments

8. Since the adoption of the 1946 Constitution, the status of the Overseas Departments has been governed by the principle of legislative assimilation; this means that all legislation and regulations applicable in metropolitan France are also applicable in the Overseas Departments without any specific provision being required. This principle was reaffirmed in article 73 of the 1958 Constitution. Within this constitutional and legislative framework, a process of extending family benefit structures to the Departments is nearing completion, involving a transition from social parity to social equality. Article 14 of Programme Act No. 86-1383 of 31 December 1986 abolishes the employment criterion for the payment of family benefits. It is estimated that 60,000 children are affected by this measure. The employment requirement for the payment of family allowances under current conditions in the Overseas Departments (beginning with the first child) was abolished by two decrees of 26 February 1988, except for employers and self-employed persons.

9. The employment condition still has to be abolished for those categories and for other family benefits, which include: (i) the family supplement; (ii) the special education allowance; (iii) the family support allowance; and (iv) the family income supplement. The first three allowances are already being granted to single parents without the employment condition under Decree No. 86-204 of 12 February 1986.

10. The cost of the abolition of the employment criterion has been estimated by the National Family Allowances Fund at 73.5 million francs. The abolition of this criterion is thus a further step towards equality in social welfare. Full equality will, however, be achieved only when allowances have been brought into line with those paid in metropolitan France and this will entail considerable additional costs (e.g. 130 million francs in the case of the family support allowance).

11. Efforts to establish social equality between metropolitan France and the Overseas Departments also involve the provision of the minimum income for reintegration purposes (RMI) in those Departments. A decree promulgated on 20 January 1989 provides for the application of the Minimum Income Act of

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1 December 1988 to the Overseas Departments. The Act takes account of differences in remuneration, of which the guaranteed minimum wage (SMIC) is the best yardstick. The RMI in the Overseas Departments is equal to 80 per cent of the figure for metropolitan France, i.e. 1,600 francs a month for a single person and 2,400 francs a month for a two-person household, plus 480 francs a month for each additional person.

12. In addition, a financial contribution by the State will supplement that paid by the Overseas Departments. In view of the special local situation of the Overseas Departments, this contribution will be used primarily for illiteracy programmes, vocational training, housing subsidies and home improvement. The State contribution will correspond to the difference between the total benefits paid in metropolitan France and those paid to beneficiaries in the Overseas Department where they reside. The total State contribution will be equal to the amount which the State would have paid as a differential allowance to beneficiaries had they been residing in metropolitan France. A major initiative by the State is involved, as some 70,000 households are expected to benefit from such assistance.

13. In conclusion, we may say that these measures provide proof that France is committed to the achievement of social equality between metropolitan France and the Overseas Departments. The concept of social equality has components not covered by the concept of overall social parity, one of the most important being the standardization of the family allowances paid. With a view to further in-depth consideration of specific means of achieving this objective, it has been decided to set up an exploratory commission which will be chaired by a well-known personality and will work in co-operation with elected representatives and persons responsible for social and economic affairs in the Overseas Departments.

(b) Overseas Territories

14. The situation in the Overseas Territories (TOM) is very different. Article 74 of the Constitution provides that the Territories have a unique form of administration defined by law in the light of their own interests: this is the principle of "legislative specialization". The form of administration is also determined by the Territories' statutes, which give them competence in particular fields. When a particular field is within a Territory's competence, it is no longer the responsibility of the State.

15. By virtue of the principle of autonomy for Overseas Territories embodied in the statutes, enforcement of the rights covered by articles 10 to 12 of the Covenant (social welfare, right to work, health, housing) comes within the competence of the Territories, which enact legislation in those fields through decisions taken in their Territorial Assemblies.

16. None the less, the State may be called upon to play a regulatory role and to intervene in areas not within its competence when the measures taken by the Territories prove inadequate to protect the rights in question. It may do so by concluding agreements with the Territory concerned. Examples include:

(i) The agreement concluded between the State and the Territory of French Polynesia on 8 May 1980 on the establishment of a rural welfare system under which the State pays all family allowances in the "family" sector of the social welfare system for rural areas (RPSMR) and takes part in the Territory's activities on behalf of the disabled;

(ii) The agreement between the State and the Territory of French Polynesia on the replacement of sub-standard housing;

(iii) The 1986 agreement between the State and the Territory of New Caledonia on aid to children; and

(vi) The agreement concluded in 1978 between the State and the Territory of New Caledonia on health care funding.

17. With regard to differences between the standard of living in the Overseas Territories and Departments and that of metropolitan France a distinction must once again be drawn between the Overseas Departments and the Overseas Territories. In accordance with the principle of legislative assimilation, the laws and regulations on the guaranteed minimum wage (SMIC) also apply to the Overseas Departments. It is true that SMIC levels in metropolitan France and in the Overseas Departments are not the same. That question could be considered by the Commission for Social Equality.

18. In the Overseas Territories, however, pursuant to those Territories' statutes, the State is competent only to define the "guiding principles of the right to work". Two laws were adopted to define those general principles: one concerning French Polynesia in 1986 and the other concerning New Caledonia in 1985. Those texts provide for a guaranteed minimum wage, which is established by the territorial authorities after consultation with territorial representative organizations.

### 2. Paternity leave

19. Three days of leave are granted to the father at the child's birth; in addition, any wage-earner who can prove that he is employed by his enterprise for at least a year at the time of the child's birth or, in the case of adoption, at the time of its arrival in the household may take "parental upbringing leave", which is granted for a period of one year and may be renewed twice up to the child's third birthday. During parental upbringing leave, the employment contract is suspended.

### 3. Reasons why the single-parent allowance is paid essentially to women

20. Of the 114,000 persons who have received the single-parent's allowance, 98 per cent are women. The allowance was established by an Act of 9 July 1976. Its purpose is to assist persons bringing up at least one child under 3 years of age and is granted irrespective of income. Most single persons who are bringing up a child, whether they are unmarried, separated or divorced, are women. In the event of divorce, the courts are more likely to grant custody of the child, especially under the age of 3, to the mother. Furthermore, women's employment, although constantly on the increase, is still less widespread than men's and this explains why women's incomes are more often below the required ceiling than those of men.

## C. Article 11: Right to an adequate standard of living

### 1. Action to combat poverty and unemployment in France

21. In the last few years, France has adopted more programmes to promote the employment of the major categories of unemployed, i.e. young people and women. These programmes have helped to make enterprises more aware of the problems involved, familiarize young job-seekers with enterprises and reduce the costs of enterprises which employ these categories of workers. Additional jobs have been created through community service work (TUC), employment integration courses (SIVP) and local integration programmes for women (PILF). More flexible early retirement mechanisms have also been established for wage-earners wishing to avail themselves of this option.

22. With regard to action to combat poverty, the French Government has been working with local authorities and charities to set up a programme which mainly provides food and housing assistance for particularly needy groups during the winter months. Since 15 December 1988, France has established a minimum income for reintegration purposes which is designed to guarantee a minimum subsistence income of 2,000 French francs a month for single persons, 3,000 French francs a month for two persons and 600 French francs for each additional dependant. In return for this income, the State will propose integration activities to the beneficiaries.

## D. Article 12: Right to physical and mental health

### 1. Relative proportions of the public and private sectors in the French health care system

23. France has a mixed health care system in which the public and private sectors have traditionally coexisted. Social coverage under the health insurance system extends to both sectors and its machinery is designed to give the patient freedom of choice. The relative proportion of the public and private sectors in respect of hospital beds is the reverse of that in respect of the number of doctors. On 1 January 1987, France had 1,300 hospitals, including 800 public hospitals, and 720,000 hospital beds, including 510,000 in public hospitals. On the same date, there were 139,000 doctors, or one doctor per 400 inhabitants; 31 per cent were in the State sector and 69 per cent were in private practice. Whatever their status, doctors enjoy freedom to prescribe any medicines they deem appropriate.

### 2. Infant mortality rate

24. The infant mortality rate per 1,000 live births has changed as follows:

| Year | 1975 | 1980 | 1982 | 1984 | 1985 | 1986 | 1987 |
|---|---|---|---|---|---|---|---|
| Infant mortality rate per thousand | 13.8 | 10 | 9.5 | 8.3 | 8.3 | 8 | 7.7 |

### 3. Restriction on the payment of allowances in respect of disabled persons

25. In this connection, attention is drawn to the declaration France made on articles 6, 9, 11 and 13 when it ratified the International Covenant on Economic, Social and Cultural Rights:

> "The Government of the Republic declares that articles 6, 9, 11 and 13 are not to be interpreted as derogating from provisions governing the access of aliens to employment or as establishing residence requirements for the allocation of certain social benefits".

This declaration was made in accordance with the principles of international law relating to declarations and reservations and it cannot be seen as contrary to the object and purpose of the Covenant.

26. France provides several types of benefits to compensate for disability depending on its cause: the ex-serviceman's pension, industrial accident benefits, the disability pension and the disabled adult's allowance. Industrial accident benefits and the disability pension are social security benefits granted to any person, regardless of nationality, who meets the necessary conditions.

27. It should be explained that the nationality condition relates only to the disabled person's allowance which was introduced by the Disabled Persons Act of 1975 and is not a social security benefit. This allowance is paid by the State without any quid pro quo in order to guarantee disabled adults a minimum of resources. It is indeed restricted to persons of French nationality, nationals of a country which has concluded a special convention with France or nationals of the European Economic Community.

28. However, the principle outlined by the French representative in his introductory statement, namely, the principle of equal treatment of nationals and aliens when the latter are lawfully resident in French territory, remains fully applicable with regard to other social benefits, including those paid to disabled adults, such as disability or industrial accident pensions. This principle finds expression, in particular, in articles L 512-1 and L 311-7 of the Social Security Code. It has also been confirmed by the decisions of French courts and, in particular, by the Council of State which had occasion to refer to it in a decision of 8 December 1978.

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## Additional information submitted by States parties to the Covenant following the consideration of their reports by the Committee on Economic, Social and Cultural Rights

## Addendum

## NETHERLANDS */

[27 June 1989]

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*/ At its 14th and 15th meetings held on 15 February 1989 (E/C.12/1989/SR.14 and 15), the Committee considered the second periodic report of the Netherlands on the rights referred to in articles 10 to 12 of the Covenant (E/1986/4/Add.24).

By its note dated 27 June 1989 the Government of the Netherlands has submitted additional information relating to the consideration of its report by the Committee, which is reproduced in the present document.

Answers by the Government of the Kingdom of the Netherlands on still outstanding questions by members of the Committee on Economic, Social and Cultural Rights on the Second Report on articles 10-12 of the Covenant on Economic, Social and Cultural Rights on 15 February 1989 in Geneva, document E/1986/4/Add.24.

Question by Mr. Texier: (para. 72 of document E/C.12/1989/SR.14)

With reference to the right to housing, he said that the Netherlands was well known for the phenomenon of squatting, i.e., the illegal occupancy of untenanted housing. It would seem from the report that local authorities had the right to requisition unoccupied housing in case of need, but he wondered how that procedure operated in practice, and also how the authorities tackled the painful issue of eviction in cases where a tenant, through economic circumstances, was no longer able to pay the rent.

Answer:

The protection and the inviolability of the home, is being secured in article 172 of the Netherlands constitution and is also applicable to legal or illegal occupants (e.g., squatters). The phenomenon of squatting still exists on a very small scale, as the introduction of the individual State aid to tenants and the considerable production of (rental) dwellings have done away with an acute housing shortage at any large scale. In these circumstances, the right to requisition unoccupied housing (not yet laid down in generally valid legislation) is not relevant and has almost no practical implementation. All the less so on account of its financial implications.

Question by Mr. Simma: (para. 8 of document E/C.12/1989/SR.15)

With reference to the right to housing and the protection of tenants, he would like to receive details on the system of rent control referred to in paragraph 60 and on how it operated. Moreover, the law in the Federal Republic of Germany provided that any appreciable improvement in the quality of the accommodation could give rise to an increase in rent and landlords could evict tenants by that expedient. Did that problem also exist in the Netherlands?

Answer

The rent control refers in particular to the right to increase the rent price, annually. By an annual Parliamentary decision (a formal Act of Parliament), it is decided to which maximum the rent price may be augmented. Moreover, the Rent Commissions may advise on the ratio between the rent level and the dwelling quality. There is a possibility in court against decisions of the Rent Commissions. As to improvement, consultations between tenant and lessor take place on the financial impact and thus on the rent increase, as well as on improvement works to be carried out.

Question of Mr. Fofana: (para. 23 of document E/C.12/1989/SR.15)

Referring to the report concerning rights covered by articles 10-12, and particularly to the right to housing (article 11), he would like to have details regarding the protection given to tenants evicted because of the restoration of the dwelling which they occupied.

Answer

Reference is made to the answer to the question put by Mr. Simma.

Question by Mr. Alston: (para. 41 of document E/C.12/1989/SR.15)

On the issue of housing, he understood that the list which had been distributed informally to the members of the Committee by a Netherlands non-governmental organization had been transmitted to the representative of the Netherlands. It would be interesting to know what the latter thought of the problems raised in that list, namely the estimated existence of 1.5 million persons on the waiting list for housing in the Netherlands, evictions of low-income groups for the benefit of middle-income groups and discrimination against women in housing. If those allegations were correct, what were their consequences, bearing in mind article 11 of the Covenant? In addition, did the homeless have an undisputed right to housing? Certainly the representative of the Netherlands had never said that there were no homeless in his country, and that raised a complex question which should be mentioned. He had noted that those countries which had spoken to date, including certain highly developed Western States, had shown themselves extremely anxious to satisfy the Committee as far as possible. None of them, however, had indicated the extent to which the economic, social and cultural rights for which they were trying to ensure respect were not fully safeguarded. In other words, it seemed that the process consisted of emphasizing and reiterating the positive aspects while the Committee should be a forum where the negative aspects were also raised. Had therefore the Netherlands encountered problems in connection with nutrition, housing or some other rights covered by the reports submitted to the Committee?

Answer

The waiting lists have a limited value, were it just for the reason that one can make an application at the same time in various municipalities. Many, wanting another dwelling, can offer their presently-occupied dwelling to the housing market. Moreover, as has been stated in the answer to the question of Mr. Texier, the considerable production of (rental) dwellings has done away with an acute housing shortage on any large scale. In the shortage areas, the system of municipal housing permits aims to exclude discrimination and to balance the ratio between income and rent price. The right to housing is respected but a number of the "homeless" have other problems than the need for physical shelter. If the "homeless" wish a dwelling for shelter, they have rights equal to all other persons residing in the country. No specific problems are encountered in this respect as far as housing is concerned.

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